

AMENDED IN SENATE JULY 5, 2000
AMENDED IN ASSEMBLY APRIL 27, 2000
AMENDED IN ASSEMBLY APRIL 25, 2000
AMENDED IN ASSEMBLY APRIL 5, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 2279

Introduced by Assembly Member Dutra

February 24, 2000

~~An act to amend Sections 9741, 9742, 9744, and 9744.5 of, and to add Section 9740.5 to, the Business and Professions Code, and to add Section 7054.61 to the Health and Safety Code, An act to amend Sections 9744 and 9745 of the Business and Professions Code, and to amend Section 7054.6 of the Health and Safety Code, relating to cremated human remains disposal.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 2279, as amended, Dutra. Cemeteries: cremated remains: licensing.

Existing law, the Cemetery Act, requires, among other things, that each cremated remains disposer provide the person authorizing the scattering of cremated human remains with a copy of the completed permit for disposition of human remains, within 60 days of the date the scattering was authorized.

This bill would instead provide that the completed permit be provided to the person with the right to control the disposition of the remains, pursuant to specified existing law, within 30 days of the date of scattering.

The existing Cemetery Act requires each cremated remains disposer to file and maintain an annual report, with specified contents, and in accordance with specified provisions.

This bill would provide that a cremated remains disposer that makes a willful and material false statement on the annual report shall be subject to disciplinary action, and shall be guilty of a misdemeanor. By creating a new crime, this bill would create a state-mandated local program.

Existing law relating to dead bodies regulates the storage and placement of cremated human remains under specified circumstances.

This bill would specify conditions for the removal, storage, and maintenance of cremated human remains by licensees and registrants under the existing Cemetery Act and Funeral Directors and Embalmers Law, and by the agents and employees of these licensees and registrants.

This bill would include provisions that would only become operative if Assembly Bill 2888 is enacted and transfers the duties of the Cemetery Program to the Cemetery and Funeral Bureau.

~~Existing law provides for the Cemetery Program, administered by the Department of Consumer Affairs, under which funeral professions are licensed and regulated.~~

~~This bill would require the department to provide specified funeral-related entities with a notice containing information on cremated remains disposal. This bill would require specified funeral-related entities that recommend, refer, or arrange the services of a registered cremated remains disposer to provide the notice to the individual controlling the disposition of the remains, as defined. This bill would provide that any funeral establishment, crematory, or cemetery that offers cremated remains disposal services is not required to provide the notice.~~

~~Existing law requires a cremated remains disposer to provide specified information when registering with the~~

~~program. The information includes business address and service area.~~

~~This bill would require the cremated remains disposer to include in that information the Airman's Medical Certificate and copy of the current pilot's license.~~

~~Existing law requires aircraft and boats used for scattering cremated remains to be registered or certified with the appropriate government agency.~~

~~This bill would require the cremated remains disposer to provide the department with an annual aircraft inspection certificate. This bill would also require the department to post specified information about cremated remains disposers on its website and toll-free telephone number.~~

~~The bill would specify that if this bill and AB 2100 are both enacted and become operative, the above posting requirements on the department would not become operative and, instead, the department would be required to make available to the public information about permissible scattering and licensed cremated remains disposers including, but not limited to, the current status of a pilot's license and inspections for aircraft or boats used for scattering.~~

~~Existing law requires each cremated remains disposer to store cremated remains in a place free from exposure to the elements and to maintain them responsibly until disposal.~~

~~This bill would also require that the remains be kept in a durable container.~~

~~Existing law requires each cremated remains disposer to provide a copy of the permit for disposition of human remains to the person authorizing the scattering of the remains within 60 days of the scattering.~~

~~This bill would require the cremated remains disposer to provide a copy of the permit and a copy of the current pilot's license to the funeral director and the person authorizing the scattering within 10 business days of the scattering.~~

~~This bill would also require the cremated remains disposer to provide the person authorizing the scattering, and the funeral establishment, crematory, or cemetery, with a signed declaration containing specified information and stating under penalty of perjury that the scattering was performed.~~

~~By expanding the definition of the crime of perjury, this bill would impose a state-mandated local program.~~

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 9740.5 is added to the Business~~
2 ~~SECTION 1. Section 9744 of the Business and~~
3 ~~Professions Code is amended to read:~~
4 9744. Each cremated remains disposer shall provide
5 the person ~~authorizing the scattering of the cremated~~
6 ~~human remains with the right to control the disposition~~
7 ~~of the remains under Section 7100 of the Health and~~
8 ~~Safety Code~~ with a copy of the completed permit for
9 disposition of human remains pursuant to Chapter 8
10 (commencing with Section 103050) of Part 1 of Division
11 102 of the Health and Safety Code within ~~60~~ 30 days of the
12 date ~~of the scattering was authorized.~~
13 SEC. 2. Section 9745 of the Business and Professions
14 Code is amended to read:
15 9745. (a) Each cremated remains disposer shall file,
16 and thereafter maintain an updated copy of, an annual
17 report on a form prescribed by the ~~Cemetery Program~~
18 ~~bureau~~. The report shall include, but not be limited to, the
19 names of the deceased persons whose cremated remains
20 were disposed of, the dates of receipt of the cremated
21 remains, the names and addresses of the persons who
22 authorized disposal of those remains, the dates and
23 locations of disposal of those remains, and the means and
24 manner of disposition. The report shall cover the fiscal
25 year ending on June 30th and shall be filed with the
26 ~~Cemetery Program bureau~~ no later than September 30th
27 of each year.

1 (b) Any cremated remains disposer that makes a
2 willful and material false statement regarding the
3 disposal of cremated remains in the annual report filed or
4 updated pursuant to subdivision (a) shall be subject to
5 disciplinary action.

6 (c) Any cremated remains disposer that makes a
7 willful and material false statement in the annual report
8 filed or updated pursuant to subdivision (a) shall be guilty
9 of a misdemeanor.

10 SEC. 2.5. Section 9745 of the Business and Professions
11 Code is amended to read:

12 9745. (a) Each cremated remains disposer shall file,
13 and thereafter maintain an updated copy of, an annual
14 report on a form prescribed by the Cemetery Program.
15 The report shall include, but not be limited to, the names
16 of the deceased persons whose cremated remains were
17 disposed of, the dates of receipt of the cremated remains,
18 the names and addresses of the persons who authorized
19 disposal of those remains, the dates and locations of
20 disposal of those remains, and the means and manner of
21 disposition. The report shall cover the fiscal year ending
22 on June 30th and shall be filed with the Cemetery
23 Program no later than September 30th of each year.

24 (b) Any cremated remains disposer that makes a
25 willful and material false statement regarding the
26 disposal of cremated remains in the annual report filed or
27 updated pursuant to subdivision (a) shall be subject to
28 disciplinary action.

29 (c) Any cremated remains disposer that makes a
30 willful and material false statement in the annual report
31 filed or updated pursuant to subdivision (a) shall be guilty
32 of a misdemeanor.

33 SEC. 3. Section 7054.6 of the Health and Safety Code
34 is amended to read:

35 7054.6. (a) Cremated remains may be removed in a
36 durable container from the place of cremation or
37 interment and kept in the dwelling owned or occupied by
38 the person having the right to control disposition of the
39 remains under Section 7100, or the durable container
40 holding the cremated remains may be kept in a church

1 or religious shrine, if written permission of the church or
2 religious shrine is obtained and there is no conflict with
3 local use permit requirements or zoning laws, if the
4 removal is under the authority of a permit for disposition
5 granted under Section 103060. The placement, in any
6 place, of six or more cremated remains under this section
7 does not constitute the place a cemetery, as defined in
8 Section 8100.

9 *(b) Prior to disposition of cremated remains, every*
10 *licensee or registrant pursuant to Chapter 12*
11 *(commencing with Section 7600) or Chapter 19*
12 *(commencing with Section 9600) of Division 3 of the*
13 *Business and Professions Code, and the agents and*
14 *employees of the licensee or registrant, shall do all of the*
15 *following:*

16 *(1) Remove the cremated remains from the place of*
17 *cremation in a durable container.*

18 *(2) Keep the cremated remains in a durable container.*

19 *(3) Store the cremated remains in a place free from*
20 *exposure to the elements.*

21 *(4) Responsibly maintain the cremated remains.*

22 ~~and Professions Code, to read:~~

23 ~~9740.5. (a) The department shall provide any funeral~~
24 ~~establishment, crematory, cemetery, or other entity that~~
25 ~~recommends, refers, or arranges the services of a~~
26 ~~registered cremated remains disposer pursuant to~~
27 ~~Section 9740, a notice containing, but not limited to, all of~~
28 ~~the following information:~~

29 ~~(1) Information about permissible scattering and~~
30 ~~current registration status of registered cremated~~
31 ~~remains disposers can be obtained by contacting the~~
32 ~~Department of Consumer Affairs' toll-free telephone~~
33 ~~number or Internet website.~~

34 ~~(2) A registered cremated remains disposer is not~~
35 ~~required to scatter cremated human remains in this state.~~

36 ~~(3) Registered cremated remains disposer services~~
37 ~~cannot be guaranteed.~~

38 ~~(4) Registered cremated remains disposers are not~~
39 ~~typically representatives or agents of funeral~~
40 ~~establishments, crematories, or cemeteries and are solely~~

1 responsible for compliance with all applicable laws and
2 regulations and for the disposition of the cremated
3 human remains released to their custody.

4 (b) Any funeral establishment, crematory, cemetery,
5 or other entity that recommends, refers, or arranges the
6 services of a registered cremated remains disposer
7 pursuant to Section 9740, shall provide the person with
8 the right to control the disposition of the remains
9 pursuant to Section 7100 of the Health and Safety Code,
10 with the notice in subdivision (a).

11 (c) Nothing in this section shall prohibit the
12 department from including this information in the
13 declaration required pursuant to Section 7685.2.

14 (d) This section shall not apply to any funeral
15 establishment, crematory, or cemetery that provides
16 cremated remains disposal services.

17 SEC. 2. Section 9741 of the Business and Professions
18 Code is amended to read:

19 9741. (a) (1) Registration shall be on the form
20 prescribed by the program and shall include, but not be
21 limited to, the full name of the registrant, business and
22 residence addresses, description and identification of
23 aircraft or boats which may be used in dispensing
24 cremated human remains, and the area to be served.
25 Each registration application shall be accompanied by
26 the cremated remains disposer fee.

27 (2) Each registrant who dispenses human remains by
28 air shall include copies of the registrant's current
29 Airman's Medical Certificate as required by Section 67 of
30 Title 14 of the Code of Federal Regulations and the
31 registrant's current pilot's license.

32 (b) Every registered cremated remains disposer who
33 dispenses human remains by air shall post a copy of his or
34 her current pilot's license, and the address of the
35 cremated remains storage area at his or her place of
36 business. Every registered cremated remains disposer
37 who dispenses human remains by boat shall post a copy
38 of his or her current boating license and the address of the
39 cremated remains storage area at his or her place of
40 business.

~~SEC. 3. Section 9742 of the Business and Professions Code is amended to read:~~

~~9742. (a) All aircraft used for the scattering of cremated human remains shall be validly certified by the Federal Aviation Administration. All boats or vessels used for the scattering of cremated human remains shall be registered with the Department of Motor Vehicles or documented by a federal agency, as appropriate. The certification or registration shall be available for inspection by the program.~~

~~(b) Every cremated remains disposer shall provide the department with a copy of the proof of the annual inspection required by Section 43 of Title 14 of the Code of Federal Regulations for all aircraft used in scattering cremated human remains.~~

~~(c) The department shall post on its Internet website and provide on its toll-free telephone number, information about permissible scattering and licensed cremated remains disposers including, but not limited to, the current status of a pilot's or captain's license and inspections for aircraft or boats used for scattering.~~

~~SEC. 3.5. Section 9742 of the Business and Professions Code is amended to read:~~

~~9742. (a) All aircraft used for the scattering of cremated human remains shall be validly certified by the Federal Aviation Administration. All boats or vessels used for the scattering of cremated human remains shall be registered with the Department of Motor Vehicles or documented by a federal agency, as appropriate. The certification or registration shall be available for inspection by the program.~~

~~(b) Every cremated remains disposer shall provide the department with a copy of the proof of the annual inspection required by Section 43 of Title 14 of the Code of Federal Regulations for all aircraft used in scattering cremated human remains.~~

~~(c) The department shall make available to the public information about permissible scattering and licensed cremated remains disposers including, but not limited to,~~

~~the current status of a pilot's license and inspections for aircraft or boats used for scattering.~~

~~SEC. 4. Section 9744 of the Business and Professions Code is amended to read:~~

~~9744. Each cremated remains disposer shall provide the person authorizing the scattering of the cremated human remains and the funeral director, or the individual acting as the funeral director, with both of the following:~~

~~(a) A copy of the completed permit for disposition of human remains pursuant to Chapter 8 (commencing with Section 103050) of Part 1 of Division 102 of the Health and Safety Code within 10 business days of the date of the scattering.~~

~~(b) A copy of the cremated remains disposer's current pilot's license.~~

~~SEC. 5. Section 9744.5 of the Business and Professions Code is amended to read:~~

~~9744.5. (a) Every cremated remains disposer shall do all of the following:~~

~~(1) Dispose of cremated remains within 60 days of the receipt of those remains, unless a written signed reason for a delay is presented to the person with the right to control the disposition of the remains under Section 7100 of the Health and Safety Code.~~

~~(2) (A) Provide the Cemetery Program with the address and phone number of any storage facility being used by the registrant to store cremated remains.~~

~~(B) Cremated remains shall be kept in a durable container and stored in a place free from exposure to the elements, and shall be responsibly maintained until disposal.~~

~~(C) The Cemetery Program and its representatives shall conduct, on an annual basis, random inspections of the operations of 5 to 10 percent of the registered cremated remains disposers, and is authorized to inspect any place used by a cremated remains disposer for the storage of cremated remains without notice to the cremated remains disposer.~~

~~(3) Provide the person authorizing the scattering, and the funeral establishment, crematory, or cemetery, with~~

~~1 a signed declaration stating under the penalty of perjury~~
~~2 that the scattering was performed at the stated date, time,~~
~~3 and place.~~

~~4 (b) A violation of the requirements of this section is~~
~~5 grounds for disciplinary action.~~

~~6 SEC. 6. Section 7054.61 is added to the Health and~~
~~7 Safety Code, to read:~~

~~8 7054.61. When cremated remains are removed from~~
~~9 the place of cremation or interment for scattering by a~~
~~10 cremated remains disposer registered pursuant to Article~~
~~11 6.5 (commencing with Section 9740) of Chapter 19 of~~
~~12 Division 3 of the Business and Professions Code, the~~
~~13 cremated remains shall be in a durable container.~~

~~14 SEC. 7. Section 3.5 incorporates amendments to~~
~~15 Section 9742 of the Business and Professions Code,~~
~~16 proposed by this bill, to be compatible with policies~~
~~17 regarding electronic governance as proposed by AB 2100.~~
~~18 Section 3.5 shall only become operative if both this bill~~
~~19 and AB 2100 are enacted and become effective on or~~
~~20 before January 1, 2001, in which case Section 3 of this bill~~
~~21 shall not become operative.~~

~~22 SEC. 8.—~~

~~23 SEC. 4. Section 2 of this act shall only become~~
~~24 operative if Assembly Bill 2888 of the 1999–2000 Regular~~
~~25 Session is enacted and transfers the duties of the~~
~~26 Cemetery Program to the Cemetery and Funeral~~
~~27 Bureau. In that case, Section 2.5 of this act shall not~~
~~28 become operative.~~

~~29 SEC. 5. No reimbursement is required by this act~~
~~30 pursuant to Section 6 of Article XIII B of the California~~
~~31 Constitution because the only costs that may be incurred~~
~~32 by a local agency or school district will be incurred~~
~~33 because this act creates a new crime or infraction,~~
~~34 eliminates a crime or infraction, or changes the penalty~~
~~35 for a crime or infraction, within the meaning of Section~~
~~36 17556 of the Government Code, or changes the definition~~
~~37 of a crime within the meaning of Section 6 of Article~~
~~38 XIII B of the California Constitution.~~

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